

06-0488ghmBensonDWOP\$.wpd

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LOUIS BENSON,

Petitioner,

v.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. H-06-0488

ORDER OF DISMISSAL

Petitioner Louis Benson, a state inmate incarcerated in the Texas Department of Criminal Justice – Correctional Institutions Division, filed this *pro se* habeas petition under 28 U.S.C. 2254 challenging his disciplinary conviction. On March 30, 2006, the Court denied petitioner's application to proceed *in forma pauperis* and ordered him to pay the \$5.00 filing fee in full within thirty days. On May 1, 2006, petitioner requested an extension of time to pay the filing fee. The Court granted petitioner a sixty-day extension, and ordered him to pay the \$5.00 filing fee no later than July 3, 2006. To-date, petitioner has failed to pay the filing fee.

Petitioner's failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998). Upon a proper

showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

Accordingly, it is **ORDERED** that this action be **DISMISSED** without prejudice for want of prosecution. Any pending motions are **DENIED** as moot.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on July 13, 2006.

A handwritten signature in black ink, appearing to read 'G. Miller', is written over a horizontal line.

GRAY H. MILLER
UNITED STATES DISTRICT JUDGE